IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 4502 of 2005

Between:

1 Kadiyala Balasubrahmanyam S/o. Ramamurhty
2 Kadiyala Suryaprakasa Rao S/o. Ramamurthy
Both are R/o. D.No. 17/385, Danduvari Street, Kalavakuru Santhi Reddy Street, Nellore, Nellore District.

..... PETITIONERS

AND

1 The Special Officer and District Collector, Nellore Municipal Corporation, Nellore, Nellore District.
2 The Municipal Commissioner, Nellore, Municipal Corporation, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the action of the respondents in demolishing the building of the petitioners bearing No. 17/385 situated at ward No. 17 interior in the West of GNT Road, Trunk Road (Danduvari Street) Nellore Town, without following the due process of law as illegal and arbitrary consequently direct the respondents not to demolish the building of the petitioners bearing D.No. 17/385, situated at Ward No. 17, interior in the West of GNT Road, Trunk Road (Danduvari Street) Nellore Town, and pass such other or further order or orders as deem fit and proper in the circumstances of the case.

Counsel for the Petitioners :MR.P.GANGA RAMI REDDY

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV.

Counsel for the Respondent No.2 : Sri S.Nageswara Reddy

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is the owner of the premises bearing No.17/385 of Ward No.17, Danduvari Street, Nellore Town. Petitioner contends that the respondents have demolished certain premises abutting the trunk road, and with a view to provide sufficient place for the demolished shops, his house is sought to be demolished. He complains that the respondents have not initiated any proceedings under the Land Acquisition Act nor did they pay any compensation, and seeks a *Writ of Mandamus* directing the respondents not to demolish his building.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents. Both counsel agreed for disposal of the writ petition at the admission stage.

The learned Standing Counsel for the respondents submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land or before demolishing any structures for the purpose of road widening.

In ***P.Lakshmana Rao Vs. Executive Officer*** a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and

Revenue authorities for acquiring the land for public purpose. The principles were reiterated in ***M.Madhavi Latha Vs. Rajendranagar Municipality***. The Principles laid down by the Division Bench are as follows:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and

on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry, and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Learned Standing Counsel appearing for the respondents, does not dispute the legal position.

The writ petition is disposed of in terms of the above judgment, and till the claim of the petitioner is decided, status quo obtaining as on today shall be maintained. No costs.

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(L.NARASIMHA REDDY,J)

Date: 09-03-2005

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To

1. The Special Officer and District Collector, Nellore Municipal Corporation, Nellore, Nellore District.
2. The Municipal Commissioner, Nellore, Municipal Corporation, Nellore, Nellore District.

3. Two C.Cs. to the Government Pleader for Municipal Administration and Urban Development, High Court of A.P., Hyderabad. (O.U.T.)

4. Two C.D. copies.